

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

KARDELL LAW GROUP'S MOTION FOR LEAVE TO INTERVENE

TO THE HONORABLE COURT:

COMES NOW, Kardell Law Group PC, and submits this, its Motion for Leave to Intervene, and would show the Court that intervention is appropriate for the following reasons:

I.

FACTUAL SUMMARY

The Kardell Law Group (the law firm) was hired by Juan Lozada-Leoni to represent him for retaliation under the Sarbanes Oxley Act on or about September 8, 2017. The Kardell Law Group agreed to represent Mr. Lozada-Leoni on a contingency fee basis, and consequently expended both money for case expenses as well as attorney and staff time in representing Mr. Lozada-Leoni. The contract provided that Mr. Lozada-Leoni assigned a percentage of any recovery made on his claims in exchange for the law firm's agreement to represent him in pursuit of his claims. Further, Mr. Lozada-Leoni agreed to reimburse the firm for all expenses over

\$200.00 incurred by the law firm in prosecution of claims on his behalf. Acting under contract, the law firm prosecuted Mr. Lozada-Leoni's claims, including instituting this lawsuit on his behalf.

In spite of the firm's diligent and competent efforts, Mr. Lozada-Leoni unilaterally and without good cause, terminated the firm from representing him in his legal action. After terminating the firm, Mr. Lozada-Leoni retained Susan Hutchinson and Rafe Foreman of the Hutchinson & Stoy.

The Kardell Law Group seeks to intervene in order to protect its contractual interest in the proceeds from this lawsuit.

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FEDERAL RULE OF CIVIL PROCEDURE 24 INTERVENTION

The law firm is entitled to intervene in this case as a matter of right pursuant to Federal Rule of Civil Procedure 24(a)(2). The firm seeks to enforce its contractual interest in the proceeds of this lawsuit. In addition, disposition of this cause of action without intervention by the firm will, as a practical matter, impair or impede the firm's ability to protect its contractual interest. It is not believed that Mr. Lozada-Leoni will be able to satisfy his contractual obligations to the firm, except through the proceeds of this lawsuit. Finally, the intervenor's interest is not being adequately represented by any of the existing parties to this litigation.

As the Supreme Court noted in *Trbovich v. UMW*, 92 S.Ct. 630, 636 (1972), the requirements of Federal Rule of Civil Procedure 24(a) are satisfied when the applicant for intervention shows that representation of his interests "may be" inadequate. The Court went on to note that the burden of making this showing should be treated as minimal.

In this case, in spite of repeated efforts, this issue has not been resolved by agreement. Mr. Lozada-Leoni certainly has no interest in enforcing the law firm's contractual rights. Likewise,

his current attorneys have no interest in enforcing the law firm's contractual rights .

Intervention under Federal Rule of Civil Procedure 24(a)(2) is appropriate and should be granted.

WHEREFORE, PREMISES CONSIDERED, the Kardell Law Group respectfully requests that its Motion for Leave to Intervene be granted, and that the Court permit its intervention for purposes of enforcing its contractual rights, and for such further relief to which it may be entitled.

Respectfully submitted,

s/ Steve Kardell
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ATTORNEY FOR INTERVENOR

CERTIFICATE OF CONFERENCE

On October 26, 2020 Proposed Intervenor Steve Kardell, of the KLG, conferred with all counsel of record herein.

- Plaintiff, represented by Hutchison & Stoy, indicated: "Plaintiff objects to any claim by Mr. Kardell to attorney fees in this matter. Plaintiff does not object to this Court making the determination as to whether Mr. Kardell should recover any fees in this matter."
- Defendants, represented by John Barcus, indicated that Defendants take no position on this dispute or this Motion.

/s/ Steve Kardell

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been transmitted to all counsel of record on October 26, 2020.

/s/ Steve Kardell